

AMENDED IN ASSEMBLY JUNE 14, 1999

AMENDED IN SENATE APRIL 27, 1999

AMENDED IN SENATE APRIL 15, 1999

**SENATE BILL**

**No. 555**

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**Introduced by Senator Karnette**

February 19, 1999

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An act to amend Sections 451.5 and 457.1 of the Penal Code, relating to arson.

LEGISLATIVE COUNSEL'S DIGEST

SB 555, as amended, Karnette. Arson: registration.

Existing law defines the crime of aggravated arson, and specifies costs to be included in calculating property damage for purposes of those provisions. The provisions relating to calculating property damage cease to have effect on January 1, 1999.

This bill would extend the operation of the above-described provisions to January 1, 2005, as specified. By extending the ~~existence~~ *operative effect* of an existing crime, this bill would create a state-mandated local program.

Existing law requires a convicted arsonist, as specified, to register with certain local officials where he or she resides and makes it a misdemeanor to fail to register.

This bill would, in addition, subject persons convicted of aggravated arson to the provisions described above. By expanding the scope of an existing crime, this bill would impose a state-mandated local program. The bill would also recast the provisions of law specifying the conditions

requiring registration, and specify the length of time persons are subject to the registration requirements. *The bill would also authorize a person subject to the registration requirement, to petition the court that entered the judgment of conviction of arson, for relief from the duty to register after a specified period of time and under specified conditions.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 451.5 of the Penal Code is  
2 amended to read:

3 451.5. (a) Any person who willfully, maliciously,  
4 deliberately, with premeditation, and with intent to  
5 cause injury to one or more persons or to cause damage  
6 to property under circumstances likely to produce injury  
7 to one or more persons or to cause damage to one or more  
8 structures or inhabited dwellings, sets fire to, burns, or  
9 causes to be burned, or aids, counsels, or procures the  
10 burning of any residence, structure, forest land, or  
11 property is guilty of aggravated arson if one or more of the  
12 following aggravating factors exists:

13 (1) The defendant has been previously convicted of  
14 arson on one or more occasions within the past 10 years.

15 (2) (A) The fire caused property damage and other  
16 losses in excess of five million dollars (\$5,000,000).

17 (B) In calculating the total amount of property  
18 damage and other losses under subparagraph (A), the  
19 court shall consider the cost of fire suppression. It is the  
20 intent of the Legislature that this paragraph be reviewed  
21 within five years to consider the effects of inflation on the  
22 dollar amount stated herein. For that reason, this  
23 paragraph shall remain in effect only until January 1, 2005,



1 and as of that date is repealed, unless a later enacted  
2 statute, which is enacted before January 1, 2005, deletes  
3 or extends that date.

4 (3) The fire caused damage to, or the destruction of,  
5 five or more inhabited structures.

6 (b) Any person who is convicted under subdivision (a)  
7 shall be punished by imprisonment in the state prison for  
8 10 years to life.

9 (c) Any person who is sentenced under subdivision  
10 (b) shall not be eligible for release on parole until 10  
11 calendar years have elapsed.

12 SEC. 2. Section 457.1 of the Penal Code is amended to  
13 read:

14 457.1. (a) As used in this section, “arson” means a  
15 violation of Section 451, 451.5, or 453, and attempted  
16 arson, ~~that~~ *which* includes, but is not limited to, a violation  
17 of Section 455.

18 (b) (1) Every person described in paragraph (2), (3),  
19 and (4), for the periods specified therein, shall, while  
20 residing in, or if the person has no residence, while  
21 located in California, be required to, within 14 days of  
22 coming into, or changing the person’s residence or  
23 location within any city, county, city and county, or  
24 campus wherein the person temporarily resides, or if the  
25 person has no residence, is located:

26 (A) Register with the chief of police of the city where  
27 the person is residing, or if the person has no residence,  
28 where the person is located.

29 (B) Register with the sheriff of the county where the  
30 person is residing, or if the person has no residence, where  
31 the person is located in an unincorporated area or city  
32 that has no police department.

33 (C) In addition to (A) or (B) above, register with the  
34 chief of police of a campus of the University of California,  
35 the California State University, or community college  
36 where the person is residing, or if the person has no  
37 residence, where the person is located upon the campus  
38 or any of its facilities.

39 (2) Any person who, since September 7, 1994, has been  
40 or is hereafter convicted in any court in this state of arson

1 or attempted arson shall be required to register, in  
2 accordance with the provisions of this section, for the rest  
3 of his or her life.

4 (3) Any person who, having committed the offense of  
5 arson or attempted arson, and after having been  
6 adjudicated a ward of the juvenile court *on or after*  
7 *January 1, 1993*, is discharged or paroled from the  
8 Department of the Youth Authority ~~on or after January~~  
9 ~~1, 1993~~, shall be required to register, in accordance with  
10 the provisions of this section, until that person attains the  
11 age of 25 years, *or until the person has his or her records*  
12 *sealed pursuant to Section 781 of the Welfare and*  
13 *Institutions Code, whichever comes first.*

14 (4) Any person convicted of the offense of arson or  
15 attempted arson between January 1, 1985, and September  
16 4, 1994, in any court of this state, shall be required to  
17 register, in accordance with the provisions of this section,  
18 for a period of five years commencing, in the case where  
19 the person was confined for the offense, from the date of  
20 their release from confinement, or in the case where the  
21 person was not confined for the offense, from the date of  
22 sentencing or discharge, if that person was ordered by the  
23 court at the time that person was sentenced to register as  
24 an arson offender. The law enforcement agencies shall  
25 make registration information available to the chief fire  
26 official of a legally organized fire department or fire  
27 protection district having local jurisdiction where the  
28 person resides.

29 (c) Any person required to register pursuant to this  
30 section who is discharged or paroled from a jail, prison,  
31 school, road camp, or other penal institution, or from the  
32 Department of the Youth Authority where he or she was  
33 confined because of the commission or attempted  
34 commission of arson, shall, prior to the discharge, parole,  
35 or release, be informed of his or her duty to register under  
36 this section by the official in charge of the place of  
37 confinement. The official shall require the person to read  
38 and sign the form as may be required by the Department  
39 of Justice, stating that the duty of the person to register  
40 under this section has been explained to him or her. The

1 official in charge of the place of confinement shall obtain  
2 the address where the person expects to reside upon his  
3 or her discharge, parole, or release and shall report the  
4 address to the Department of Justice. The official in  
5 charge of the place of confinement shall give one copy of  
6 the form to the person, and shall, not later than 45 days  
7 prior to the scheduled release of the person, send one  
8 copy to the appropriate law enforcement agency having  
9 local jurisdiction where the person expects to reside upon  
10 his or her discharge, parole, or release; one copy to the  
11 prosecuting agency that prosecuted the person; one copy  
12 to the chief fire official of a legally organized fire  
13 department or fire protection district having local  
14 jurisdiction where the person expects to reside upon his  
15 or her discharge, parole, or release; and one copy to the  
16 Department of Justice. The official in charge of the place  
17 of confinement shall retain one copy. All forms shall be  
18 transmitted in time so as to be received by the local law  
19 enforcement agency and prosecuting agency 30 days  
20 prior to the discharge, parole, or release of the person.

21 (d) All records relating specifically to the registration  
22 in the custody of the Department of Justice, law  
23 enforcement agencies, and other agencies or public  
24 officials shall be destroyed when the person required to  
25 register under this subdivision for offenses adjudicated by  
26 a juvenile court attains the age of 25 years or has his or her  
27 records sealed under the procedures set forth in Section  
28 781 of the Welfare and Institutions Code, whichever  
29 event occurs first. This subdivision shall not be construed  
30 to require the destruction of other criminal offender or  
31 juvenile records relating to the case that are maintained  
32 by the Department of Justice, law enforcement agencies,  
33 the juvenile court, or other agencies and public officials  
34 unless ordered by the court under Section 781 of the  
35 Welfare and Institutions Code.

36 (e) Any person who is required to register pursuant to  
37 this section who is released on probation or discharged  
38 upon payment of a fine shall, prior to the release or  
39 discharge, be informed of his or her duty to register under  
40 this section by the probation department of the county in

1 which he or she has been convicted, and the probation  
2 officer shall require the person to read and sign the form  
3 as may be required by the Department of Justice, stating  
4 that the duty of the person to register under this section  
5 has been explained to him or her. The probation officer  
6 shall obtain the address where the person expects to  
7 reside upon his or her release or discharge and shall  
8 report within three days the address to the Department  
9 of Justice. The probation officer shall give one copy of the  
10 form to the person, and shall send ~~two copies to the~~  
11 ~~Department of Justice, which, in turn, shall forward one~~  
12 ~~copy to the appropriate law enforcement agency having~~  
13 ~~local jurisdiction where the person expects to reside upon~~  
14 ~~his or her discharge, parole, or release. one copy to the~~  
15 *appropriate law enforcement agency having local*  
16 *jurisdiction where the person expects to reside upon his*  
17 *or her discharge or release, one copy to the prosecuting*  
18 *agency that prosecuted the person, one copy to the chief*  
19 *fire official of a legally organized fire department or fire*  
20 *protection district having local jurisdiction where the*  
21 *person expects to reside upon his or her discharge or*  
22 *release, and one copy to the Department of Justice. The*  
23 *probation officer shall also retain one copy.*

24 (f) The registration shall consist of (1) a statement in  
25 writing signed by the person, giving the information as  
26 may be required by the Department of Justice, and (2)  
27 the fingerprints and photograph of the person. Within  
28 three days thereafter, the registering law enforcement  
29 agency shall electronically forward the statement,  
30 fingerprints, and photograph to the Department of  
31 Justice.

32 (g) If any person required to register by this section  
33 changes his or her residence address, he or she shall  
34 inform, in writing within 10 days, the law enforcement  
35 agency with whom he or she last registered of his or her  
36 new address. The law enforcement agency shall, within  
37 three days after receipt of the information, electronically  
38 forward it to the Department of Justice. The Department  
39 of Justice shall forward appropriate registration data to

1 the law enforcement agency having local jurisdiction of  
2 the new place of residence.

3 (h) Any person required to register under this section  
4 who violates any of the provisions thereof is guilty of a  
5 misdemeanor. Any person who has been convicted of  
6 arson or attempted arson and who is required to register  
7 under this section who willfully violates any of the  
8 provisions thereof is guilty of a misdemeanor and shall be  
9 sentenced to serve a term of not less than 90 days nor  
10 more than one year in a county jail. In no event does the  
11 court have the power to absolve a person who willfully  
12 violates this section from the obligation of spending at  
13 least 90 days of confinement in a county jail and of  
14 completing probation of at least one year.

15 (i) Whenever any person is released on parole or  
16 probation and is required to register under this section  
17 but fails to do so within the time prescribed, the Board of  
18 Prison Terms, the Department of the Youth Authority, or  
19 the court, as the case may be, shall order the parole or  
20 probation of that person revoked.

21 (j) The statements, photographs, and fingerprints  
22 required by this section shall not be open to inspection by  
23 the public or by any person other than a regularly  
24 employed peace officer or other law enforcement officer.

25 (k) In any case in which a person who would be  
26 required to register pursuant to this section is to be  
27 temporarily sent outside the institution where he or she  
28 is confined on any assignment within a city or county,  
29 including, but not limited to, firefighting or disaster  
30 control, the local law enforcement agency having  
31 jurisdiction over the place or places where that  
32 assignment shall occur shall be notified within a  
33 reasonable time prior to removal from the institution.  
34 This subdivision shall not apply to any person temporarily  
35 released under guard from the institution where he or she  
36 is confined.

37 (l) Nothing in this section shall be construed to conflict  
38 with Section 1203.4 concerning termination of probation  
39 and release from penalties and disabilities of probation.

1 A person required to register under this section may  
2 initiate a proceeding under Chapter 3.5 (commencing  
3 with Section 4852.01) of Title 6 of Part 3 and, upon  
4 obtaining a certificate of rehabilitation, shall be relieved  
5 of any further duty to register under this section. This  
6 certificate shall not relieve the petitioner of the duty to  
7 register under this section for any offense subject to this  
8 section of which he or she is convicted in the future.

9 Any person who is required to register under this  
10 section due to a misdemeanor conviction ~~shall be relieved~~  
11 ~~of the requirement to register if that person is relieved~~  
12 ~~from the penalties and disabilities of probation pursuant~~  
13 ~~to Section 1203.4.~~ *may petition the court that entered his*  
14 *or her judgment of conviction, for relief from the duty to*  
15 *register after a period of five years commencing, in the*  
16 *case where the person was confined for the offense, from*  
17 *the date of his or her release, or in the case where the*  
18 *person was not confined for the offense, from the date of*  
19 *his or her sentencing, provided that the person has during*  
20 *that five-year period, continuously complied with the*  
21 *provisions of this section and has not been convicted of*  
22 *another arson or attempted arson offense during that*  
23 *period of time.*

24 SEC. 2. No reimbursement is required by this act  
25 pursuant to Section 6 of Article XIII B of the California  
26 Constitution because the only costs that may be incurred  
27 by a local agency or school district will be incurred  
28 because this act creates a new crime or infraction,  
29 eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section  
31 17556 of the Government Code, or changes the definition  
32 of a crime within the meaning of Section 6 of Article  
33 XIII B of the California Constitution.